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Appl. No. 10/672,729

Amnt. dated 7/7/06

Reply to Office Action of Mar 7, 2006

REMARKS/ARGUMENTS

Claim 1-14 remain in this application. Claims 1 and 1 and 10 have been amended to clarify the scope of the invention, and claim 9 has been amended to correct a spelling error.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102 (b) as anticipated by Perry 5,817,143. Claims 1-14 are rejected under 35 U.S.C. 103(a) as unpatenable over polito 5,427,121 in view of Maxwell 4,135,020.

35 U.S.C. 102(b) rejections:

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102 (b) as anticipated by Perry 5,817,143.

Applicant traverses the 102 rejection as the Perry invention is in no way "adapted for contact with a portion of a fingernail or toenail" and specified in Claim 1. In any case, Claim 1 as amended includes several other limitations not found in Perry. Claims 3-4 and 7-9 depend from claim 1.

35 U.S.C. 103(a) rejections:

Claims 1-14 are rejected under 35 U.S.C. 103(a) as unpatentable over Polito 5,427,121 in view of Maxwell 4,135,020.

Independent claims 1 and 10 have been amended to specify that the invention forms a three dimensional design on a nail within a stencil cutout having walls, and leaves the design on the nail when the stencil is removed. The cited references are briefly summarized below, and the differences with the present

invention are specified. Please also review the affidavit from one of the inventors attached to this paper delineating the differences between the present invention and the cited references which make the present invention non-obvious.

Maxwell teaches a method for creating wall art. A panel, door, or wall board is placed in a flat, stable position (col. 4, Ins. 14-16). A thick stencil sheet (1/4 inch or thicker, col. 4, In. 28) is routed out to form a negative pattern to be applied to the door or the like. The stencil is placed on the door. The operator fills the routed out void with modeling paste or the like, and uses a squeegee to force the paste into the voids (col. 4, Ins. 27-50). The stencil is removed. The door is left in a horizontal position for about twenty-four hours to permit shrinkage and semi-hardening (col. 4, In 65-67). An alternate method for casting the designs in place is described in col. 8, Ins. 28-44, and requires inserting a stencil inside a paper concrete column mold prior to pouring the concrete. When the medium has set, the paper mold is removed and then the stencil is removed.


Polito teaches a method of applying a flat design to a fingernail, in which nail polish is sprayed onto the nail using a flat stencil.

The present invention is quite different from either of the cited references. The methods and materials used in Maxwell would not work on nails (please see the attached affidavit for a better explanation of why this is). The method of Polito does not form a three-dimensional design.

There is no motivation provided to combine the two references, and methods for forming wall decoration would not be considered to be relevant by manicurists. Even if the two methods were combined, it would still not result in the method of the present invention, as neither reference includes important features of the present invention, including a flexible stencil with walls of at least about 1 mm for forming a three dimensional design on the nail. Neither describes pouring the material for the design into the mold. Neither describes the use of poured liquid acrylic to form the design.

As all of the claims now in the application appear to be in condition for allowance, applicant respectfully requests that the application be allowed and passed to issue as soon as possible.

Respectfully submitted,
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